

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION

Kipper King,)	
)	
Plaintiff,)	C.A. No.: 0:11-cv-01071-JMC
)	
v.)	OPINION AND ORDER
)	
)	
South Carolina Department of Corrections;)	
Director John Carmichael; and)	
Monica B. Watts,)	
)	
Defendants.)	
)	

This matter is before the court on the Magistrate Judge's Report and Recommendation [Doc. 16]. Petitioner was an inmate housed at the Turbeville Correctional Institution at the time of the Report and Recommendation. The Magistrate Judge's Report and Recommendation, filed on June 28, 2011, recommends that this case be dismissed without prejudice and without issuance of service of process. The Report and Recommendation sets forth in detail the relevant facts and legal standards on this matter, and the court incorporates the Magistrate Judge's recommendation herein without a recitation.

The Magistrate Judge's Report and Recommendation is made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The court is charged with making a de novo determination of those portions of the Report and Recommendation to which specific objections are made, and the court

may accept, reject, or modify, in whole or in part, the Magistrate Judge's recommendation or recommit the matter with instructions. *See* 28 U.S.C. § 636(b)(1).

Objections to the Report and Recommendation must be specific. Failure to file specific objections constitutes a waiver of a party's right to further judicial review, including appellate review, if the recommendation is accepted by the district judge. *See United States v. Schronce*, 727 F.2d 91, 94 & n.4 (4th Cir. 1984). In the absence of specific objections to the Magistrate Judge's Report and Recommendation, this court is not required to give any explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983).

Plaintiff timely filed Objections [Doc. 19] to the Magistrate Judge's Report and Recommendation.¹ First, Plaintiff objects to the Magistrate Judge's analysis of Plaintiff's claim in light of *Preiser v. Rodriguez*, 411 U.S. 475, 500 (1973) which holds that "when a state prisoner is challenging the very fact or duration of his physical imprisonment, and the relief he seeks is a determination that he is entitled to immediate release or a speedier release from that imprisonment, his sole federal remedy is a writ of habeas corpus." *Id.* Rather, Plaintiff appears to argue that his complaint falls under section 1-1-980 of the South Carolina Code. Section 1-1-980 addresses compliance with the appropriate procedures for reporting expenditures of state funds, personal data regarding personnel, and related information. *See* S.C. Code Ann. § 1-1-980 (2010). The court finds that section 1-1-980 is not applicable to Plaintiff's claims.

¹ Plaintiff filed additional Objections [Doc. 26] on August 8, 2011. However, such objections were not timely filed. In addition, the court finds such objections to be non-specific and a restatement of Plaintiff's initial Objections [Doc. 19].

Additionally, Plaintiff appears to argue that possible public access to his allegedly falsified records has caused him mental anguish and emotional stress. However, the court finds such objection is nonspecific and irrelevant to the issues outlined in the Report and Recommendation.

Accordingly, after a thorough review of the Magistrate Judge's Report and Recommendation [Doc. 16] and the record in this case, the court adopts the Report and Recommendation. Therefore, it is hereby ordered that this case is dismissed without prejudice and without issuance of service of process.

IT IS SO ORDERED.



United States District Judge

November 1, 2011
Greenville, South Carolina